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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,976	08/17/2001	Paul V. Haydock	018048-0011100US	7225

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EXAMINER

WILDER, CYNTHIA B

ART UNIT	PAPER NUMBER
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1637

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/830,976	Applicant(s) HAYDOCK ET AL.	
	Examiner Cynthia B. Wilder, Ph.D.	Art Unit 1637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 and 45-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-40 and 48-90 is/are allowed.
- 6) ☐ Claim(s) 41-43, 45-47 and 91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment filed April 7, 2004 is acknowledged and has entered. Claim 41 has been amended. Claim 44 has been canceled. Claims 1-43 and 45-91 are pending. All of the amendments and arguments have been thoroughly considered and reviewed but are deemed moot in view of the new grounds of rejections. Any rejections not reiterated in this action have been withdrawn as being obviated by the amendment of the claims.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Previous Rejections

3. The prior art rejections under 35 USC 102(e) directed to claims 41-47 and 91 are withdrawn in view of the new grounds of rejections.

New Ground(s) of Rejections

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 41 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams et al (WO 90/01564, February 1990). Regarding claim 41, Adams et al teach an apparatus comprising a solid support wherein said solid support is a dipstick having attached thereto a capture reagent which binds to a target analyte and wherein said solid support (dipstick) comprises a solid surface which is coated with a non-stick coating

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material. Adams et al teach that the solid surface material avoids porosity that interferes with the diffusion rate of free nucleic acids (abstract and page 3, lines 4-33).

Regarding claim 46, Adams et al teach the apparatus of claim 41, wherein the capture reagent comprises an oligonucleotide that hybridizes to a polynucleotide which comprises a target analyte (col. 4, lines 12-13). Thus, Adams et al meets the limitations of claims 41 and 46.

6. Claims 41-43, 45-47 and 91 are rejected under 35 U.S.C. 102(b) as being anticipated by Gustafson et al (US 5,478,527, December 1995). Regarding claims 41-43, 45-47 and 91, Gustafson et al teach an apparatus comprising a solid support wherein said solid support is a dipstick having attached thereto a capture reagent which binds to a target analyte. Gustafson et al teach that the capture agent may be antibody or a nucleotide hybridizing agent (col. 7, lines 5-15) and wherein the capture agent may be attached covalently (col. 7, lines 18-22) or non-covalently (col. 7, lines 64-65) to the solid support. The reference further teaches wherein said solid support (dipstick) comprises a solid surface which is coated with a non-stick coating material, wherein said non-stick material is a silanizing agent, such as polysiloxane and/or silane (col. 9, lines 4-26). Therefore, Gustafson et al meets the limitations of claims 41-43, 45-47 and 91 of the instant invention.

Conclusion

7. Claims 41-43, 45-47 and 91 are not allowed. Claims 1-40 and 48-90 contain allowable subject matter because no prior art was found teaching a method of reducing cross-contamination of assay reagent solutions, wherein a non-stick coating material is

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coated onto the solid support to reduce cross-contamination of reagent solutions that come in contact with the solid support.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia B. Wilder, Ph.D. whose telephone number is (571) 272-0791. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be emailed to cynthia.wilder@uspto.gov. Since email communications may not be secure, it is suggested that information in such request be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

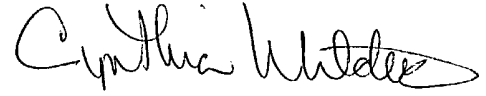
Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

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**CYNTHIA WILDER
PATENT EXAMINER**

6/30/2002